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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/516,953	04/07/2005	Balthasar Miller	4358-13	8618	
23117 NIXON & VAN	7590 04/01/200 NDERHYE. PC	9	EXAMINER		
901 NORTH G	LEBE ROAD, 11TH F	MERCADO, JULIAN A			
ARLINGTON,	VA 22203		ART UNIT PAPER NUMBER		
			1795		
			MAIL DATE	DELIVERY MODE	
			04/01/2009	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)				
Office Action Commence	10/516,953	MILLER, BALTHASAR				
Office Action Summary	Examiner	Art Unit				
	JULIAN MERCADO	1795				
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address	;			
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 16(a). In no event, however, may a reply be tim ill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONEI	N. nely filed the mailing date of this communi D (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on						
	· · · · · · · · · · · · · · · · · · ·					
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits i						
closed in accordance with the practice under E	x parte Quayle, 1935 C.D. 11, 45	i3 O.G. 213.				
Disposition of Claims						
4)⊠ Claim(s) <u>1-29</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdraw	vn from consideration.					
5) Claim(s) is/are allowed.						
6) Claim(s) is/are rejected.						
7) Claim(s) is/are objected to.						
8) Claim(s) 1-29 are subject to restriction and/or e	lection requirement.					
Application Papers						
9) The specification is objected to by the Examiner						
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
	Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).					
11) The oath or declaration is objected to by the Exa						
Priority under 35 U.S.C. § 119		7.6	· _ ·			
<u> </u>		((d) = = (f)				
12) Acknowledgment is made of a claim for foreign	priority under 35 U.S.C. § 119(a)	-(a) or (t).				
a) All b) Some * c) None of:	. have been made in a					
1. Certified copies of the priority documents		N				
2. Certified copies of the priority documents	• •					
3. Copies of the certified copies of the prior	•	d in this National Stage	8			
application from the International Bureau		.i				
* See the attached detailed Office action for a list of	or the certified copies not receive	a.				
Attachment(s)						
1) Notice of References Cited (PTO-892)	4) Interview Summary					
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08)	Paper No(s)/Mail Da 5) Notice of Informal Pa					
Paper No(s)/Mail Date	6) Other:	• •				

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-18 and 29, drawn to a process of manufacture of a synthetic fiber material.

Group II, claim(s) 19-27, drawn to a porous material/non-woven fabric having a first and second porosity.

Group III, claim(s) 28, drawn to a fuel cell having a gas diffusion layer with a fibrous core .

The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Groups I-III share the special technical feature of having a synthetic acrylic or polymeric material. As this special technical feature is not a contribution to the art as evidenced by EP 0 386 633, unity of invention is therefore found lacking.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

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The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained.

Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. Failure to do so may result in a loss of the right to rejoinder. Further, note that the prohibition against double

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patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is

withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Julian Mercado whose telephone number is (571) 272-1289. The

examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Patrick J. Ryan, can be reached on (571) 272-1292. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703) 308-0661.

/Julian Mercado/

Examiner, Art Unit 1795

/PATRICK RYAN/

Supervisory Patent Examiner, Art Unit 1795

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